

REMARKS

Applicants thank the Examiner for the thorough examination given the present application.

Status of the Claims

Claims 1-15 are pending in the above-identified application with claims 1-5 standing ready for further action on the merits and claims 6-15 being currently withdrawn from consideration. Claims 3, 5, and 10-11 have been amended in accordance with the Examiner's suggestions. For example, claim 5 was amended to correct a minor typographical error. The present amendments do not introduce new matter into the application as originally filed. Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Specification

The specification was amended to correct typographical errors pointed out by the Examiner. Accordingly, no new matter was introduced by the present amendments.

Specifically, the Examiner objected to pages 9-10 of the specification for describing Figure 1 twice and to page 14 for reciting "Cyc" rather than "Cy." Applicants have amended the specification to correct these errors. As such, Applicants respectfully submit that the objections have been overcome and should be removed.

Claim Objections

The Examiner has objected to claim 5 for reciting “basedlyotropic” rather than “based lyotropic.” Claim 5 has been amended to correct this issue. As such, Applicants respectfully submit that the objection has been overcome and should be removed.

Claim Rejections under 35 U.S.C. § 112

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner asserts that Applicants fail to define what is intended by the phrase “S_X wherein X is not A or C.” Applicants respectfully traverse in view of the amended claim.

Applicants have amended claim 3 in order to further define the limitation. As such, Applicants respectfully submit that the rejection has been overcome and should be removed.

Claim Rejections under 35 U.S.C. §§ 102 and 103

Claims 1 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by **Naito et al.** '291 (US 5,958,291).

Claims 2-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over **Naito et al.** '291.

Applicants respectfully traverse. Reconsideration and withdrawal of these rejections are respectfully requested based on the following considerations.

Legal Standard for Determining Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art.” *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Legal Standard for Determining Prima Facie Obviousness

MPEP 2141 sets forth the guidelines in determining obviousness. First, the Examiner has to take into account the factual inquiries set forth in *Graham v. John Deere*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), which has provided the controlling framework for an obviousness analysis. The four *Graham* factors are:

- (a) determining the scope and content of the prior art;
- (b) ascertaining the differences between the prior art and the claims in issue;
- (c) resolving the level of ordinary skill in the pertinent art; and
- (d) evaluating any evidence of secondary considerations.

Graham v. John Deere, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966).

Second, the Examiner has to provide some rationale for determining obviousness. MPEP 2143 sets forth some rationales that were established in the recent decision of *KSR International Co. v Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007). Exemplary rationales that may support a conclusion of obviousness include:

- (a) combining prior art elements according to known methods to yield predictable results;
- (b) simple substitution of one known element for another to obtain predictable results;
- (c) use of known technique to improve similar devices (methods, or products) in the same way;
- (d) applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (e) “obvious to try” – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success
- (f) known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art;
- (g) some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

As the MPEP directs, all claim limitations must be considered in view of the cited prior art in order to establish a *prima facie* case of obviousness. See MPEP 2143.03.

Distinctions over the Cited Reference

Naito et al. '291 disclose a guest-host liquid crystal display element which conducts a color display by driving a liquid by applying a voltage. The guest-host liquid crystal display element disclosed in **Naito et al. '291** is quite different from the guest-host polarizer of the present invention. In fact, **Naito et al. '291** specifically disclose a Polymer Dispersed Liquid Crystal, which does not require a polarizer (col. 2, lines 66-67). Otherwise, the **Naito et al. '291** reference is completely silent as to a polarizer. Furthermore, the guest-host liquid crystal disclosed in **Naito et al. '291** does not contain a polymerized liquid crystal host.

Accordingly, the present invention is not anticipated by **Naito et al. '291** since the reference does not teach or provide for each of the limitations recited in the pending claims.

Moreover, a *prima facie* case of obviousness has not been established. To establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be disclosed by the cited references. As discussed above, **Naito et al. '291** fail to disclose all of the claim limitations of independent claim 1, and those claims dependent thereon. Accordingly, the reference does not render the present invention obvious. Furthermore, the cited reference or the knowledge in the art provides no reason or rationale that would allow one of ordinary skill in the art to arrive at the present invention as claimed. Therefore, withdrawal of the outstanding rejections is respectfully requested. Any contentions of the USPTO to the contrary must be reconsidered at present.

CONCLUSION

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case clearly indicating that each of claims 1-5 are allowed and patentable under the provisions of title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Reg. No. 58,258 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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